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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/522,464

01/26/2005

Stephane Auberge

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04/01/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

DIEP, NHON THANH

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

04/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/522,464	Applicant(s) AUBERGER ET AL.	
	Examiner Nhon T. Diep	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-5 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding to claims 1-5, which are method claims, and that the claims do not fall within one of the four statutory categories of inventions. Supreme Court precedent and recent Federal Circuit decisions indicate a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, it is considered that none of the steps in the claims positively recites the other statutory class (the thing or product) to which it is tied, for example, by identifying the apparatus that accomplishes the method steps, In re Bilski, 88 USPQ2d 1385 (Fed. Cir. 2008).

4. Claims 4 and 5 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding to claims 4-5, which recite "a computer readable medium...". As disclosed in the specification, paragraph 0059: "The set of instructions may be loaded

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into the programming memory by reading a data carrier such as, for example, a disc. A service provider can also make the set of instructions available via a communication network such as, for example, the Internet.”. At least in the case when the computer readable medium happens to be a carrier signal, the claims recite nothing but a form of energy. And , therefore, the claims are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (US 6,043,838).

Chen discloses a view offset estimation for stereoscopic video coding comprising the same method of encoding a digital video sequence, said digital video sequence comprising some sets of images including a disparity map comprising an image in which a disparity value is assigned to every pixel (fig. 5, image 505 of left view and image 515 of right view), and col. 3, lines 23-62), said disparity map being used to reconstruct one image of a set of images from a reference image of said set of images (col. 8, lines 19-24), characterized in that the method comprises the steps of:

encoding a type of the disparity map to be used for the reconstruction of an image (three types of computing distance x: minimum mean square error, minimum means error and camera focus and the inter-ocular separation); and

encoding the disparity map (fig. 1, el. 115) as specified in claims 1 and 6; characterized in that the encoding of the type of the disparity map is done by means of a flag (inherently included in the header information to indicate any one of the above types) as specified in claim 2; characterized in that the encoding of the type of the disparity map is followed by a set of parameters (MPEG protocol: header information follows by image information (parameter)) as specified in claim 3; a computer-readable medium having encoded thereon a computer program product for an encoder said computer program product comprising a set of instructions, which, when loaded into said encoder causes the encoder to carry out the method claimed in any one of claims 1 to 3 (fig. 1) as specified in claim 4; a computer-readable medium having encoded thereon a computer program product for a computer, said computer program product comprising a set of instructions, which, when loaded into said computer, causes the computer to carry out the method claimed in any one of claims 1 to 3 (fig. 1) as specified in claim 5; and a video communication system, which is able to receive a digital video, said video communication system comprising an encoder as claimed in claim 6 for encoding said video signal, a transmission channel for transmitting the encoded video signal; and a decoder for decoding said encoded video signal (fig. 1) as specified in claim 7.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhon T. Diep whose telephone number is 571-272-7328. The examiner can normally be reached on m-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ND

/Nhon T Diep/
Primary Examiner, Art Unit 2621